CORONADO OIL CO.

IBLA 80-473 Decided February 10, 1981

Appeal from decision of Wyoming State Office, Bureau of Land Management, declaring oil and gas lease WA-46098 to have expired at the end of its primary term.

Affirmed.

1. Oil and Gas Leases: Suspensions--Oil and Gas Leases: Termination

A competitive oil and gas lease is properly issued for a primary term of 5 years. Where an application for suspension of production requirements for a lease on which there is no well capable of producing in paying quantities is not timely filed in accordance with 43 CFR 3103.3-8 before the expiration date of the lease, the lease automatically terminates.

2. Estoppel

The elements of an estoppel are the following: (1) the party to be estopped must know the facts; (2) he or it must intend that his or its conduct shall be acted on or must so act that the party asserting the estoppel has a right to believe it is so intended; (3) the latter must be ignorant of the true facts; and (4) he or it must rely on the former's conduct to his or its injury.

Estoppel of the Government is an extraordinary remedy, especially as it relates to public lands, and is to be applied with the greatest care and circumspection.

3. Notice: Generally--Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Lawrence P. Terrell, Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Coronado Oil Company has appealed from a decision of the Wyoming State Office, Bureau of Land Management, dated February 8, 1980, which held its lease WA-46098 to have expired at the end of its primary term, August 31, 1979. The decision stated that the lease was issued effective September 1, 1974, for a period of 5 years, and that the Geological Survey had advised that a drainage well was requested but not started prior to August 31, 1979.

The record confirms that a competitive lease (WA 46098) was issued to appellant September 1, 1974, under the terms of the Mineral Leasing Act for Acquired Lands, 30 U.S.C. §§ 351-358 (1976). The Act provides that certain qualified acquired lands may be leased by the Secretary under the same conditions contained in the leasing provisions of the mineral leasing laws.

This lease issued for 80 acres in the Shurley Field located in sec. 23, T. 42 N., R. 65 W., sixth principal meridian, Weston County, Wyoming. Although the lease document expressly stated that this lease was issued for a period of 10 years, the lease could only be issued for 5 years under the Mineral Leasing Act, as amended, 30 U.S.C. § 226(e) (1976), and the implementing regulation 43 CFR 3120.1-1. 1/

When BLM inquired of Geological Survey whether there had been any activity on the lease or within the unit which would make the lease eligible for extension, it was informed that the lease should expire because a requested drainage well was not started on the lease before the expiration date. The Bureau subsequently issued its decision noting the expiration of the primary term of the lease.

1/ We note, with some concern, that the form utilized, 3200-2 (Aug. 1965), has the 10-year term printed thereon. This form is entitled "Future Interest or Competitive." While future interest leases for acquired lands may be issued for 10 years, competitive leases whether issued for public domain or acquired lands are, by statute, limited to 5 years. Thus, there are no circumstances in which this form would be properly utilized for competitive leases. We believe, therefore, that this form should either be amended or recalled.

On appeal Coronado takes note of the error of the 10-year primary term in the lease document itself, but does not challenge the fact that the maximum legal primary term of this competitive lease was a period of 5 years, terminating on August 31, 1979. However, Coronado argues that the lease should be treated as still in existence because it has filed an application for suspension of operations and production of this lease with the Geological Survey at the same time it has filed this appeal. The stated reason for the requested suspension is that access to this and other leases which they hold in the Shurley Field has been denied by two ranchers who own the surface in the area. It has pursued the matter in the courts and has obtained a favorable decision from the Supreme Court of the State of Wyoming and is currently involved in proceedings to condemn access to the lands.

Appellant maintains that the filing date of the suspension application should be considered March 12, 1979, the date on which it filed a similar application for suspension concerning six other Federal oil and gas leases which it held near the lease in question. It argues the Government is estopped from denying that it has timely filed the application as of March 12, 1979. It contends that if the Government is estopped from denying that the filing date of the application is March 12, 1979, then that filing date clearly precedes the date on which the lease was legally scheduled to expire. With this interpretation of the sequence of events the existence of the lease is preserved pending a final decision on the suspension application by Geological Survey.

Appellant argues that the determination of this appeal depends completely on the outcome of the suspension proceeding before Geological Survey and, therefore, requests the Board to defer its decision pending a final determination on the suspension application. We do not accept this line of reasoning.

[1] First, a competitive oil and gas lease is issued for a primary term of 5 years and continues so long after its primary term as oil or gas is produced in paying quantities. 30 U.S.C. § 226(e) (1976); 43 CFR 3120.1-1. A lease which has not been extended by either production or diligent drilling on the last day of the lease period automatically expires by its own terms at the end of the lease period. Duncan Miller, 37 IBLA 129 (1978); Alta Vista Resources, Inc., 10 IBLA 45 (1973).

In this instance appellant does not claim lease extension by production, but rather seeks retroactive suspension of the lease relieving it from the operating and producing requirements under 43 CFR 3103.3-8. This regulation provides that suspension of production requirements for leases of lands in which there are no wells capable of producing in paying quantities must be approved by the Secretary. This authority is

not delegated to officers of the Department below the Secretarial level. Moreover, even the Secretary may grant suspension only in the interest of conservation. American resources Management Corp., 40 IBLA 195 (1979); Jones-O'Brien, Inc., 85 I.D. 89 (1978). This regulation specifically requires that a written application for suspension be filed with the appropriate area oil and gas supervisor of the Geological Survey. It has been determined by the Secretary that if this written application is not timely filed prior to the expiration date of the lease, the lease terminates. Jones-O'Brien, Inc., supra at 94. Since in the present case appellant did not file its application before the lease expired August 31, 1979, the lease automatically terminated on that date.

Appellant, however, argues that the subsequent filing date of its application should not prohibit consideration of its application. It points out that the Government should be estopped from considering its lease terminated because it relied on the 10-year term embodied in the lease document.

[2] This Board has recently noted the limited application of estoppel to public lands cases in State of Alaska, 46 IBLA 12, 21, (1980), where we stated:

> On several occasions, this Board has acknowledged the passing of the traditional rule that estoppel cannot be invoked against the Government and has recognized the elements of estoppel set forth by the Ninth circuit in United States v. Georgia-Pacific Company, 421 F.2d 92 (9th Cir. 1970) as the initial test for determining whether estoppel is appropriate. Edward L. Ellis, 42 IBLA 66 (1979); United States v. Larsen, 36 IBLA 130 (1978); Henry E. Reeves, 31 IBLA 242 (1977). The elements of estoppel as identified in Georgia-Pacific are:
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> > (1) The party to be estopped must know the facts; (2) he must intend that this conduct shall be acted on or must so act that the party asserting the estoppel has a right to believe it is so intended; (3) the latter must be ignorant of the true facts; (4) he must rely on the former's conduct to his injury.
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> However, we have also agreed with that statement in the decision of the district court in United States v. Eaton Shale Co., 433 F. Supp. 1256, 1272 (D. Colo. 1977), which declared that "estoppel of the government is an extraordinary remedy, especially as it relates to public lands, and is to be applied with the greatest care and circumspection." Edward L. Ellis, 42 IBLA 66 (1979).

Although the lease document erroneously spelled out a 10-year term for this lease, both the governing statute and regulation clearly limit competitive leases to a primary term of 5 years. Appellant is involved in the oil and gas leasing business and has many other outstanding leases and must be aware of the specific legal requirements. Whether or not the other three elements of estoppel may exist in this case, appellant cannot claim ignorance of the true facts as to the maximum primary term of competitive leases. Moreover, estoppel cannot bestow a greater right than that permitted by law or by the applicable regulation, which has the force of law.

[3] All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Ross Weaver, 49 IBLA 111 (1980); M. E. Rogers, 47 IBLA 196 (1980). It was incumbent upon appellant to be aware of the legal requirements for competitive leases and to comply with the pertinent regulations for a timely suspension application. It may not place the burden of its noncompliance upon BLM, and estoppel will not properly apply in this situation.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

James L. Burski
Administrative Judge